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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/687,662   | 10/20/2003  | Hideo Sawaoka        | 2018-793            | 4426             |
| 23117  | 7590        | 01/11/2006           | EXAMINER            |                  |
| NIXON & VANDERHYE, PC<br>901 NORTH GLEBE ROAD, 11TH FLOOR<br>ARLINGTON, VA 22203 |             |                      |                     | HOANG, JOHNNY H  |
|  |             | ART UNIT             |                     | PAPER NUMBER     |
|  |             |                      |                     | 3747             |

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/687,662             | SAWAOKA, HIDEO      |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Johnny H. Hoang        | 3747                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 and 21-34 is/are pending in the application.
  - 4a) Of the above claim(s) 3,4,7,8,11 and 12 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,5,6,9,10 and 21-34 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 5, 6, 9, 10, and 21-34 are rejected under 35 U.S.C. 102(b) as being anticipated by the Actron OBD II Diagnostic Tester (2000 Actron Manufacturing Co.).

Regarding claims 1, and 2, the Actron OBD II Diagnostic Tester including the following subject matters:

a completion status determination part that determines whether a diagnosis process of the diagnosis function is completed or not (see page 1-1); and

a diagnosis function evaluation part that determines the fault diagnosis function is not a normal condition when the diagnosis process is not completed during one of a predetermined number and a predetermined time period (see page 1-1, 1-2, 2-1, and 2-2).

Regarding claims 5, and 6, as discussed in above claims, the Actron OBD II Diagnostic Tester further checking the components to the computer which are used for (typically): fuel delivery, idle speed control, spark timing and emission system (see page 1-1).

Regarding claims 9, and 10, as above discussions, the Actron OBD II Diagnostic Tester further store the diagnostic trouble code in the memory (page 1-1) and tester can also erase the codes (page 2-1, and 4-2).

Regarding claim 21, as discussed in claim 1, and 2

Regarding claims 22, 23, and 34, the Actron OBD II Diagnostic Tester is including the On-Board Computer which including the computer readable medium.

Regarding claims 24-29, as discussed in the rejections of claims 1, and 2.

Regarding claims 30-33, as discussed in the rejections of claims 5, and 6.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5, 6, 9, 10, and 21-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Bischof et al (US 6,125,322).

Regarding claims 1, 2, 5, 6, 9, 10, 21, and 24-33, the reference of Bischof et al discloses the system for a fault diagnosis function, which is including the process of the diagnosis function, is completed or not (see Fig. 2, col. 4, line 20 through col. 5, line 67).

Regarding claims 22, 23, and 34, the reference of Bischof et al further teaches a control unit (10) processed and supplied to a microcomputer (22), with respect to its program structure, essentially subdivided into three level (col. 2, line 17 through col. 4, line 18).

#### *Response to Arguments*

5. *Applicant's arguments filed October 14, 2005 have been fully considered but are moot in view of the new ground(s) of rejection. Claims 1, 2, 5, 6, 9, 10, and 21-34 are pending.*

#### *Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny H. Hoang whose telephone number is (571) 272-4843. The examiner can normally be reached on Monday - Thursday (7:00Am-5:30Pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (571) 272-4856.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JHH  
01/03/06

Johnny H. Hoang  
Examiner  
Art Unit 3747



Andrew M. Dolinar  
Primary Examiner